

REMARKS

Applicant requests reconsideration and allowance in view of the above amendment and the following remarks.

In the Office Action the Examiner required formal drawings, objected to the Abstract, required cross reference to a related application, and objected to claim 9. There is no parent or other priority application referenced on page 1. The other objections or requirements have been overcome by the above amendment.

In the Office Action, all of the claims are rejected based upon a combination of US patent number 5,142,391 (Fujiwara) in view of US patent number 5,085,650 (Itani). The following remarks will show that the rejection is clearly erroneous and is not supported by the references. The remarks will also show that the invention is patentable over the art of record and that a notice of allowance should issue.

The Office Action in its paragraphs 3-16, globally rejects claims 1-15 based upon Fujiwara, Fig. 5, Itani, Fig. 3A, and portions of both references.

Applicant objects to the Office Action on grounds that it fails to identify in the references the elements or limitations that correspond to the claims. Applicant has submitted 15 claims, including two independent claims (claims 1 and 14) and thirteen dependent claims. The rejection fails to apply the references to the specific elements and limitations of the claims. Instead, the rejection globally rejects all claims without identifying where the elements of the invention are found in the references. As such, the rejection is difficult to understand.

To the extent the rejection can be understood, it appears the rejection applies the Fujiwara reference to show all of the features of the invention except for placing the protective sheet over one of the first and second surfaces (claims 1, 14). That element is supplied by the Itani reference. Applicant notes that on page 5 the examiner refers to "McFadden," but Applicant believes that the reference there is an error and that the Examiner meant to refer to Fujiwara.

The criteria for making a *prima facie* case of obviousness are found in the Manual of Patent Examining Procedures, Sections 2143 and 2143.03:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either

in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.** [Section 2143, Emphasis added.]

. . . .

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). . . . [Section 2143.03, Emphasis added.]

The above rejection is wholly inadequate and cannot support a *prima facie* case of obviousness because it fails to find all the elements of the claims. In particular, the rejection and the references fail to show or suggest the **flexible** substrate. Applicant points out that Fujiwara relies upon **glass** substrates for supporting the liquid crystal display. Nothing in Fujiwara teaches away from using glass substrates to support the liquid crystal display. Glass is rigid and cannot meet the claim limitation of a flexible substrate.

The Itani device is not a liquid crystal display device. Instead, it is an electrolumination display. The two technologies are markedly different. In particular, the liquid crystal material and the fluorescent material used in the different types of displays are clearly different from each other. The Itani reference fails to expressly teach a flexible substrate. Itani is silent about whether its substrate is flexible or rigid.

In summary, the rejection and the art of record fail to show the flexible substrate of independent claims 1 and 14.

Many limitations in the dependent claims are also not found in the rejection or the references. For example, the sequence of sequential deposited layers found in claim 3 is neither shown nor suggested in the references. In claim 3, the flexible substrate is covered with a transparent conductor and the liquid crystal layer is over the transparent conductor. On top of the liquid crystal is an opaque layer of conductive ink. The opaque layer is covered with a dielectric layer and a second electroconductive layer.

The steps in the Fujiwara process deposit the layers in a different order. Fujiwara does not place an opaque and dielectric layer over the liquid crystal layer. In Fujiwara the light absorbing (opaque) layer is beneath the liquid crystal layer and the dielectric layer 35 is between the liquid crystal layer and the light absorbing layer 34. As such, the steps for depositing the sequential layers of the invention are clearly different from the steps used by the reference.

Claim 5 is patentable over the art of record because the rejection and the art fail to show or suggest using liquid crystal material that comprises cholesteric material with polymeric binder comprising deionized gelatin.

Claim 6 is patentable over the art of record because no reference shows opaque electrically conductive material that comprises electrically conductive ink.

Claim 7 is patentable over the art of record because no reference shows or suggests a protective sheet formed from materials out of a group consisting of polyesters, polyolefins, polycarbonates, vinyl resins, acrylic resins and methacrylic resins.

Claim 8 is patentable over the art of record because the rejection fails to identify homopolymer or co-polymer adhesive resins.

Claims 10 and 11 are patentable over the art of record because no reference is cited to show or suggest a first printed sheet between a first surface and a first protective sheet.

Claim 12 is patentable over the art of record because no reference is cited to show or suggest contact apertures in the protective sheet to permit electrically addressing the liquid crystal display.

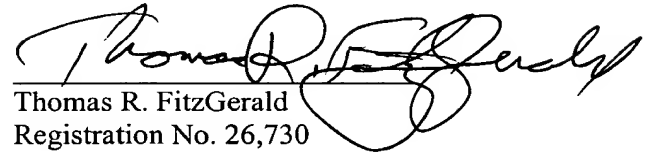
Claims 13 and 15 are patentable for the same reasons given above in connection with the corresponding limitations found in those claims.

In summary, the art of record as applied to the claims fails to show all the elements of the independent claims and many elements of the dependent claims. As such, the rejection fails to make a *prima facie* case for obviousness and the invention is patentable over the art of record as applied to the claims. Accordingly, it is submitted that the application as amended, is now in a condition for allowance and

Applicant requests a notice of allowance.

Respectfully submitted,

7/7/03
Date


Thomas R. FitzGerald
Registration No. 26,730

Thomas R. FitzGerald, Esq.
Registration No. 26,730
16 E. Main Street, Suite 210
Rochester, NY 14614-1803
Telephone: (585) 454-2250
Fax: (585) 454-6364